TL 845

SITUAÇÃO DOS PRESOS POLÍTICOS EM TIMOR-LESTE

Março de 1992

Comissão «Liberdade para Xanana, Liberdade para Timor»

COMISSÃO «LIBERDADE PARA XANANA, LIBERDADE PARA TIMOR»

No seguimento da prisão do comandante Xanana Gusmão e do agravamento da repressão em Timor-Leste, um grupo de timorenses, a que se associaram grupos de solidariedade portugueses, tomou a iniciativa de constituir uma organização informal para a defesa dos presos políticos timorenses. O prof. Fernando Sylvan aceitou desde logo ser o seu Presidente de Honra.

Assim surgiu, em Janeiro de 1993, a COMISSÃO «LIBERDADE PARA XANANA, LIBERDADE PARA TIMOR». A sua primeira iniciativa foi a organização de um cordão humano que ligou, no fim da tarde de 19 de Janeiro, o Centro de Informação das Nações Unidas e a Nunciatura Apostólica em Lisboa, locais onde um grupo de personalidades entregou cartas dirigidas, respectivamente, ao Secretário-Geral das Nações Unidas e ao Papa João Paulo II.

Objectivos

Sendo o fim principal a defesa dos presos políticos timorenses, a COMISSÃO «LIBERDADE PARA XANANA, LIBERDADE PARA TIMOR» definiu como objectivos:

- a recolha sistematizada de informação sobre os presos, suas famílias e respectivas condições de vida;
- a recolha de informação produzida por organizações internacionais, não-governamentais, parlamentos, governos e outras instituições, assim como notícias ou análises publicadas em orgãos de informação sobre as mesmas questões;
- a divulgação das violações dos direitos humanos em Timor-Leste, em especial as relacionadas com os presos políticos;
- o contacto com instituições de âmbito internacional e nacional que possam colaborar na efectiva defesa dos presos políticos;
- a organização de actividades que permitam angariar apoios concretos destinados aos presos políticos timorenses e suas famílias.

Participação

A COMISSÃO «LIBERDADE PARA XANANA, LIBERDADE PARA TIMOR» é um grupo informal, aberto à colaboração de todos quantos queiram agir em defesa dos presos políticos timorenses.

Para garantir a funcionalidade indispensável à concretização dos seus objectivos, as decisões sobre o programa de actividades e a respectiva coordenação cabem ao núcleo fundador.

Mas é desejável que em todas as iniciativas participe um conjunto cada vez mais alargado de cidadãos, de modo a ampliar o movimento de solidariedade com o povo de Timor-Leste e, em especial, com os presos políticos e suas famílias.

Como critério fundamental de adesão à COMISSÃO «LIBERDADE PARA XANANA, LIBERDADE PARA TIMOR» elegeu-se a capacidade de pôr em prática acções visando os seus objectivos. São bem-vindas todas as actividades, de todas as pessoas, grupos, instituições que queiram desse modo contribuir para a defesa dos presos políticos timorenses.

Tome uma iniciativa e adira à COMISSÃO!

DECLARAÇÕES DE D.XIMENES BELO À RÁDIO AUSTRÁLIA - 28/02/93

East Timor's Bishop again denounces abuses

Bishop Carlos Ximenes Belo, head of the Catholic church of East Timor, told **Radio Australia** on 28 February 1993 of his anger over public ceremonies where East Timorese are forced to renounce past links with the Independence movement. He repeated earlier charges that human rights continue to be abused in the former Portuguese colony.

Radio Australia's Ian Mackintosh in Dili quoted the Bishop as saying it was the church's moral and spiritual duty to speak out against human rights abuse and injustice. (...).

He also told Radio Australia that beatings and torture were continuing. The church has collected data and he wold soon write to the UN if the abuses continue. (...).

Asked whether political events in Jakarta this month - when Suharto will be appointed president for a sixth term on 10 March -would provide impetus for change, the Bishop sounded pessimistic. He said that he held his present post for ten years during which time nothing had changed.

EXCERTOS DE DOCUMENTO DA «AMNESTY INTERNATIONAL» (AI INDEX: ASA 21/03/93) - FEVEREIRO DE 1993

INDONESIA/EAST TIMOR

A New Order?
Human Rights in 1992

INTRODUCTION

In the past year the Indonesian Government has taken a number of unprecedented initiatives which appear to signal a positive shift in its attitude toward human rights. Yet the grim factual record of human rights practice in 1992 tells a different story. Political killing, "disappearance", torture, arbitrary detention, political imprisonment and the use of the death penalty have continued without significant interruption, despite intermittent changes in the level and nature of violations reported in particular regions. The violations have not been confined to East Timor but have occurred throughout the territory under Indonesian rule. (...).

This report examines the record of human rights practice in Indonesia and East Timor since the Santa Cruz massacre of November 1991. It finds that there has been no fundamental change in the government's repressive posture toward political dissent, and that basic human rights continue to be violated in the name of national security, stability and order. It also finds that the government's human rights initiatives, while certainly a step in the right direction, have not addressed the root causes of human rights abuse. The report concludes that human rights abuse has become institutionalized in Indonesia and East Timor, and that concrete measures are urgently needed to remedy the problem. (...).

1. AN OVERVIEW OF HUMAN RIGHTS IN 1992

The gravest violations of human rights reported to Amnesty International in the past year have occurred in the context of counter-insurgency operations in East Timor and Aceh, where the government has continued to face both peaceful and armed opposition to its rule. In these areas, military authorities have been free to employ virtually any means - including unlawful execution, "disappearance", arbitrary detention and torture - in the interest of maintaining national security, and destroying what the government calls Gerakan Pengacau Keamanan (Security Disruptors Movements). (...).

Restrictions on Human Rights Monitoring

(...) Continued restrictions on access to East Timor and parts of Indonesia have also contributed to this atmosphere by making effective human rights monitoring almost impossible. Notwithstanding the general improvement in its access to political prisoners, the ICRC was unable to conduct confidential prison visits in East Timor between March and December 1992. Parliamentary delegations from the European Parliament, the United States and Australia were refused permission to visit East Timor during the year, and access to foreign journalists was tightly circumscribed. Despite granting permission to Amnesty International to visit Jakarta for five days in January 1993, the government continued to reject the organization's requests for access to carry out research in Indonesia and East Timor. (...).

The Problem of Impunity

If conviction is a foregone conclusion for alleged political criminals in Indonesia and East Timor, the prosecution and conviction of the perpetrators of human rights violations continue to be the exception rather than the rule. The most significant exception in 1992 was the trial of ten members of the security forces before a military tribunal in connection with the Santa Cruz massacre. Yet, despite at least 100 killings and substantial evidence of torture during and after the massacre, none of those tried was charged with murder and only one, a police corporal, was charged with assault. All received light prison sentences of between eight and 18 months. One other military official was tried during the year in connection with the March 1990 torture and killing of Candido Amaral in East Timor; he was sentenced to two months in jail. Little action was taken against members of the security forces who committed serious violations against suspected government opponents in other parts of the country. A small number of police officials were, however, tried and sentenced for torture leading to the death of criminal suspects. (...).

4. EXTRAJUDICIAL EXECUTION AND "DISAPPEARANCE"

Though especially common in the context of government counter-insurgency operations, extrajudicial killings and "disappearances" have also become a central part of the government's institutional repertoire in dealing with other perceived threats to national security, including criminal activity and peaceful political opposition. (...).

Dozens of new "disappearances" were reported from East Timor in 1992; some of the victims were later discovered to have been in incommunicado military or police detention, but others were feared dead. The "disappeared" included Marcos dos Santos and Ercolano Soares, both residents of Dili, who "disappeared" after being detained by the police on 14 July 1992. According to reports, they were beaten by their captors, then taken to the military hospital in Lahane, after which their whereabouts were unknown. Another victim was Arnaldo de Araujo who was arrested in September 1992 by a joint force of police and intelligence officers while resting at his home in Lahane, Dili. According to eyewitnesses, he was handcuffed and blindfolded before being taken to a waiting vehicle. Two months later he was still missing. Another of the victims was Gaspar Xavier Carlos, who was arrested in early September together with several friends. He was believed to have been held incommunicado in Colmera Prison in Dili for some time, but subsequently "disappeared". Relatives feared that he had been killed. (...).

5. ARBITRARY ARREST AND INCOMMUNICADO DETENTION

(...) More than 300 East Timorese were detained following the Santa Cruz massacre in November 1991. Most were released after interrogation but at least 24, and possibly many more, were held in Dili without charge or trial for more than three months. Seventy other East Timorese were arrested during a peaceful demonstration in Jakarta one week after the massacre. Forty-nine were released after two weeks, but the rest were held without charge or trial until March 1992. As a condition for their release, all were made to sign affidavits renouncing their peaceful political beliefs and stating their willingness to face legal sanction - including the death penalty - should they commit similar "offences" in the future.

Hundreds more East Timorese were detained during the year, often to prevent them from engaging in peaceful political activities. In September 1992, for example, the government announced that six East Timorese had been arrested in order to prevent them from organizing a demonstration during the Non-Aligned Movement summit in Jakarta. Scores of others were arbitrarily detained on similar grounds in the weeks prior to the anniversary of the Santa Cruz massacre in late October 1992. The most recent wave of arrests began with the capture of

Xanana Gusmão, the leader of the East Timorese resistance movement, on 20 November. He was held incommunicado for more than two weeks, giving rise to serious concern for his safety. In a subsequent crackdown, more than seventy people, including several of Xanana Gusmão's relatives, were arrested. Most were held incommunicado for several weeks, and some were tortured. Arrests on a similar pattern continued to be reported in early 1993. (...).

6. TORTURE AND ILL-TREATMENT

Torture and ill-treatment of political detainees continued to be widely practised in Indonesia and East Timor in 1992. As the UN Special Rapporteur on Torture noted in his 1992 report "*...torture occurs in Indonesia, in particular in cases which are considered to endanger the security of the state. In areas which are deemed to be unstable... torture is said to be practised routinely.*"

Political Detainees

As in previous years suspected supporters of independence for East Timor were subjected to torture and ill-treatment in order to extract confessions or political intelligence. In August 1992, Agostinho Pereira was detained at Dili airport by security forces who suspected that he was a member of a pro-independence group. Eyewitnesses said that he was beaten on the spot by soldiers until his face was swollen and blood came from his ears. According to reports received by Amnesty International, his whereabouts remained unknown in January 1993 and there was concern that he may have "disappeared".

Immediately after his arrest, dozens of young East Timorese were detained. One of those arrested in early September and held for one month, whose name is known to Amnesty International, gave the following account of his treatment while in custody:

> *At 9am the agents sought me out at the Polytechnic in Hera and I had no choice but to surrender. I was handcuffed and tortured on the spot and then taken to Colmera prison where I was hit and kicked and generally taken revenge upon. I was asked my name, to which I responded...They laughed as they tortured me further, tearing off my rosary and forcing me to eat [it], the way they had done to the youths on the day of the Santa Cruz massacre. They ripped off and stole my gold chain and after having drawn blood, placed me in an empty room where I was left for two days without food. In a nearby house where there are cells, I heard the voices of prisoners, some of whom were moaning with hunger. One of the voices I thought to be that of my brother...but I couldn't positively identify it. Two days later I was interrogated again and had all of my clothing, apart from shorts, taken from me. I was accused of being the leader of the clandestine group and forced to admit that I knew about everything. Since I denied this, they began again with their dreadful torture: electric shocks, beatings with a club and, whilst forced to kneel on sharp rocks, I was burned with cigarettes and electric irons. Today my whole body bears the scars resulting from this torture. I was forced to sit on the floor with both feet up on a chair and then a huge rock weighing roughly 30 kilos was placed on my knees for a long period of time, whilst I was being interrogated. Today my left knee is crippled. During the interrogations one of my colleagues...was also brought in and subjected to torture. When I first saw him, I was totally unable to recognize him because of the physical state he was in. I remained in the cell for one month and, fearing that my death was imminent, I decided to escape rather than be shot.*

Military authorities were also reported to have tortured or ill-treated some of the hundreds of suspected government opponents detained since early November 1992. One man, Henrique Belmiro Guterres, was reportedly hospitalized after his finger-nails were pulled out and his hands broken by his captors. Military and police officials were also said to have raped some of the women in their custody. The victims included three young women from Ainaro, whose names are

known to Amnesty International. According to reports, they were arrested and then raped by soldiers of the local military post (KORAMIL) on 8 June 1992. (...).

7. PRISONERS OF CONSCIENCE AND UNFAIR POLITICAL TRIALS

(...).

Prisoners of Conscience

At least 13 of the scores of East Timorese arrested at the end of 1991 were believed to be prisoners of conscience. Four were sentenced to prison terms ranging from nine years to life imprisonment for subversion and nine others received lesser sentences for "*publicly expressing hostility*" towards the government. Francisco Maria Branco and Gregorio da Cunha Saldanha were sentenced to 15 years' and life imprisonment respectively for organizing the peaceful pro-independence demonstration in Dili in November 1991. Fernando Araujo and João Freitas da Camara were also convicted of subversion and sentenced to nine and ten years for organizing a peaceful march in Jakarta one week later to protest against the killings. In his verdict the judge said that Fernando Araujo was also guilty of "*undermining the Indonesia government and disgracing the nation in the eyes of the international community*" because he had sent information about human rights violations to the International Committee of the Red Cross and Amnesty International. (...).

Unfair Political Trials

Political trials in Indonesia and East Timor have consistently failed to meet international standards of fairness, or to conform with Indonesia's own Code of Criminal Procedure (KUHAP). Most political prisoners have been convicted under Indonesia's sweeping Anti-Subversion law, which is still commonly used despite insistent recommendations for its repeal by members of the Indonesian legal profession, and by the UN Special Rapporteur on Torture. Others have been jailed for various crimes against national security and public order specified in the Indonesian Criminal Code (KUHP), including that of "*publicly expressing feelings of hostility toward the government*" (Article 154).

As in previous years, defendants in political cases tried in 1992 were held incommunicado for periods up to several months, and tortured or pressured to extract confessions. Some defendants were convicted on the basis of uncorroborated confessions or testimony extracted under duress. Gregorio da Cunha Saldanha, wounded in the 12 November procession and then sentenced to life imprisonment for subversion in 1992, gave the following account of his interrogation by police in Dili:

> *During the period of our detention in the regional police office prison, they took turns interrogating us, day and night. On a date I don't remember towards the end of November 1991, we were subjected to interrogations from the afternoon until the following morning. At that time we were very weak because of our injuries, and yet we were beaten and threatened by the Inspector...We were surrounded by other police, some of whom joined in pulling our moustaches. We were obliged to give an explanation in accordance with the wishes of the investigators, not according to the true facts.*

Most political detainees were also denied access to legal counsel of their choice. Lawyers defending East Timorese and suspected supporters of Aceh Merdeka reported that they were unable to meet their clients, or see copies of relevant court documents, prior to the commencement of the trial. When consultation was allowed, in the case of East Timorese on trial in Dili, it was repeatedly disrupted by members of the local security apparatus. Procedures during the trials also failed in many respects to conform to Indonesia's Code of Criminal Procedure. In

the trial of East Timorese charged with subversion, for example, the defendants were not given an opportunity to call witnesses in their own defence.

In principle many of these irregularities could have been challenged in pre-trial proceedings (pra-peradilan). However, as defence lawyers for East Timorese prisoners noted, this process failed to take place because the detainees "*...were completely denied access or communication with the world beyond the prison*". Moreover, defence lawyers were subjected to political pressure from the authorities to ensure that the defendants would be found guilty. (...).

It is against this background of systematic unfairness that the trial of East Timor's resistance leader Xanana Gusmão, must be understood. In Amnesty International's view this trial, like all previous political trials in East Timor and Indonesia, is unlikely to meet international standards of fairness. Indeed, practices highly prejudicial to a fair trial have already been evident in this case. After his capture on 20 November Xanana Gusmão was held in incommunicado detention for 17 days before ICRC representatives were permitted to see him. Available evidence suggests that he may have been psychologically or physically ill-treated during this period, and that he may have been forced to make confessions, and other statements, under duress. Throughout his interrogation, Xanana Gusmão was not accompanied by a lawyer, as required under Indonesian law. Independent lawyers from the Legal Aid Institute (LBH) were not permitted to visit him, despite having been given power of attorney by his immediate relatives. A defence lawyer from a different organization was finally appointed on 26 January 1993, more than two months after Xanana Gusmão's arrest, and just six days before the trial began. (...).

EXCERTOS DO RELATÓRIO ANUAL DO DEPARTAMENTO DE ESTADO SOBRE A SITUAÇÃO DOS DIREITOS HUMANOS NA INDONÉSIA EM 1992.

INDONESIA

(...) The most important human rights developments during the year concerned government efforts to cope with the aftermath of army troops' killing of unarmed demonstrators on November 12, 1991, in East Timor. At the recommendation of a military investigating body formed on President Soeharto's orders, unprecedented disciplinary action was taken against 6 senior officers and 10 officers and enlisted men involved in the incident. Thirteen Timorese civilians were convicted in connection with the incident. Most of the latter received extremely harsh sentences. Members of the security forces involved in the shootings were charged only with relatively minor offenses. While the civilians' trials were open and generally conducted in accordance with Indonesian law, they failed to meet all international standards of fairness. (...).

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

(...) In East Timor, tightened security and revised military procedures put into place following the November 12, 1991, shooting incident in Dili appeared to have led to a substantial reduction in civilian deaths attributable to security forces. The exact number and circumstances of the deaths of several Fretilin guerrillas reported killed could not be confirmed. Although the Government did take action against those involved in the November 1991 incident in East Timor, the Government made only minor efforts in 1992 to try and punish appropriately those responsible for killings, torture, and other abuses committed in previous years in Aceh and other areas.

In Baucau, East Timor, two East Timorese were shot on October 5. One was killed outright by ABRI forces. A credible source believes the other, who was taken to a military hospital, was beaten to death while in the hands of ABRI.

The Government continued to deal with the November 12, 1991, shooting of civilians in East Timor. A military "Honorary Council" appointed by President Soeharto in December 1991 to investigate the conduct of security forces in the incident announced its results in February, finding that some members of the security forces had been negligent, had failed to anticipate problems adequately, or had violated military ethics and discipline. As a result of this finding, 4 officers and 6 enlisted members of the security forces were court-martialed in May and June, one on charges of assault and 9 others on charges of exceeding or failing to obey official orders. No charges were brought against ABRI personnel for actually killing civilians during the incident in which 50 to 100 people are thought to have died as a result of military action. All of the soldiers were convicted in sessions open to diplomatic observers and the press and received sentences ranging from 6 to 18 months in prison. Six senior officers were disciplined; three, including the brigadier general who commanded security forces in East Timor at the time of the incident, were discharged. Five other officers were investigated further, one of whom was to be retired early because of his alleged failure to act decisively during the incident.

Little progress was made in locating those demonstrators still missing after the incident. The national investigatory commission refuted earlier military claims that only 19 people died on

November 12 by stating in December 1991 that "about 50" were killed. The Commander of the Armed Forces reported to President Soeharto in July that 66 people remained missing. But despite more than 6 months of investigation, the military claimed it had been unable to find any additional bodies beyond the 19 originally accounted for. Although official accounts suggested that some of the 66 were still in hiding, credible sources believed most, if not all, of them were dead. (...).

d. Arbitrary Arrest, Detention, or Exile

(...) In East Timor military authorities continued the practice of detaining people without charges for short periods and then requiring them to report daily or weekly to police after their release. There were credible reports of scores of people being detained without charges at various times during the year for enforced "vocational training." This occurred during periods of potential unrest, such as the February visit to East Timor of the U.N. Secretary General's Special Envoy, Amos Wako, and the March approach of the Portuguese car ferry, the Lusitania Expresso. Arrests, other temporary detentions, intrusive searches and some beatings also occurred just before the anniversary of the November 12 shootings and in the aftermath of the November 20 arrest of Fretilin leader Jose "Xanana" Gusmao. There have been credible reports that Timorese detainees have been mistreated. In addition, 24 Timorese arrested in the aftermath of the November 12 incident were officially "released" on March 2 when the Attorney General decided only 8 detainees in East Timor would be tried. But the military commander of East Timor continued to hold the 24 in military camps around East Timor for most of the remainder of 1992 for intensive instruction on Indonesian civics. Although they were allowed visits by family members, and 10 were seen by the ICRC, their continued detention in military facilities without charges was a clear violation of KUHAP.

e. Denial of Fair Public Trial

(...) Four Timorese were convicted of subversion in 1992 in trials in Dili and Jakarta. The four were part of a group of 13 Timorese charged in connection with either a November 12, 1991, demonstration in Dili that preceded the shooting incident, or a November 19, 1991, demonstration in Jakarta that protested the shootings. The other 9 were tried on felony hate-sowing or sedition charges. These trials were attended by international observers, including representatives of the International Commission of Jurists, the Indonesian and foreign press, and the U.S. and other embassies. In general, the trials were substantially fairer than the Aceh proceedings. But in the Dili trials in particular, they did not meet international standards for fair trial. For example, access to legal counsel was obstructed to the extent that the defendants in several cases met their chosen attorneys only on the day their trials began. Even then, the Dili District Court barred attorneys in the subversion cases from representing the accused on technical grounds until the Supreme Court intervened. All 13 accused Timorese were convicted. One received a 6-month sentence and was released immediately. Seven received sentences of 10 years or more, and one received a life sentence, which is unusually harsh even in a subversion case. There is reason to believe that these harsh sentences were intended specifically to deter future such anti-integration activity. Security personnel responsible for the shootings were charged with relatively minor offenses. (...).